House File 2353 - Introduced

HOUSE FILE 2353 BY BODEN

A BILL FOR

- 1 An Act relating to an emergency temporary no-contact order.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. <u>NEW SECTION</u>. **664A.3A Emergency temporary no-** 2 contact order.
- 3 l. Notwithstanding section 664A.3A, a court may issue an
- 4 emergency temporary no-contact order prior to the arrest of a
- 5 person for an alleged violation of a public offense referred to
- 6 in section 664A.2, subsection 1.
- 7 2. A person alleging to be a victim of a public offense
- 8 referred to in section 664A.2, subsection 1, may file an
- 9 application for an emergency temporary no-contact order which
- 10 shall include the following:
- ll a. The name and mailing address of the person making the
- 12 application.
- 13 b. The name and address, if known, of the person alleged to
- 14 have violated a public offense referred to in section 664A.2,
- 15 subsection 1.
- 16 c. The nature of the alleged violation.
- 3. The court shall enter an emergency temporary no-contact
- 18 order if the court finds both of the following:
- 19 a. Probable cause exists to believe that any public offense
- 20 referred to in section 664A.2, subsection 1, has occurred.
- 21 b. The presence of or contact with the person alleged to
- 22 have violated a public offense referred to in section 664A.2,
- 23 subsection 1, poses a threat to the safety of the alleged
- 24 victim, persons residing with the alleged victim, or members
- 25 of the alleged victim's family.
- 26 4. The emergency temporary no-contact order shall set forth
- 27 the reasons for the issuance of the order, be specific in
- 28 terms, and describe in reasonable detail the act or acts being
- 29 restrained.
- 30 5. An emergency temporary no-contact order issued without
- 31 notice under this section shall be endorsed with the date and
- 32 hour of issuance and be filed immediately in the office of the
- 33 clerk of the district court issuing the order, and shall expire
- 34 at such time as the court directs, not to exceed ten days from
- 35 issuance.

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- 1 6. If no criminal charge has been filed against the person
- 2 alleged to have violated a public offense referred to in
- 3 section 664A.2, subsection 1, prior to the expiration of the
- 4 emergency temporary no-contact order, the emergency temporary
- 5 no-contact order shall expire.
- 6 7. If a criminal charge has been filed against the person
- 7 alleged to have violated a public offense referred to in
- 8 section 664A.2, subsection 1, prior to the expiration of the
- 9 emergency temporary no-contact order, the court shall proceed
- 10 as provided in section 664A.3.
- 11 EXPLANATION
- 12 The inclusion of this explanation does not constitute agreement with
- the explanation's substance by the members of the general assembly.
- 14 This bill relates to an emergency temporary no-contact
- 15 order.
- 16 The bill provides that notwithstanding Code section 664A.3A
- 17 (entry of temporary no-contact order), a court may issue an
- 18 emergency temporary no-contact order prior to the arrest of a
- 19 person for an alleged violation of: domestic abuse assault
- 20 (Code section 708.2A), harassment (Code section 708.7),
- 21 stalking (Code section 708.11), sexual abuse in the first
- 22 degree (Code section 709.2), sexual abuse in the second degree
- 23 (Code section 709.3), sexual abuse in the third degree (Code
- 24 section 709.4), and any other public offense for which there
- 25 is a victim.
- 26 The bill provides that a person alleging to be a victim of a
- 27 public offense referred to in Code section 664A.2(1) may file
- 28 an application for an emergency temporary no-contact order
- 29 which shall include the name and mailing address of the person
- 30 making the application; the name and address, if known, of
- 31 the person alleged to have violated a public offense referred
- 32 to in Code section 664A.2(1); and the nature of the alleged
- 33 violation. The court shall enter an emergency temporary no-
- 34 contact order if the court finds probable cause exists to
- 35 believe that any public offense referred to in Code section

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- 1 664A.2(1) has occurred; and the presence of or contact with the
- 2 person alleged to have violated a public offense referred to
- 3 in Code section 664A.2(1) poses a threat to the safety of the
- 4 alleged victim, persons residing with the alleged victim, or
- 5 members of the alleged victim's family.
- 6 The bill provides that the emergency temporary no-contact
- 7 order shall set forth the reasons for the issuance of the
- 8 order, be specific in terms, and describe in reasonable detail
- 9 the act or acts being restrained. An emergency temporary
- 10 no-contact order issued without notice shall be endorsed with
- 11 the date and hour of issuance and be filed immediately in the
- 12 office of the clerk of the district court issuing the order,
- 13 and shall expire at such time as the court directs, not to
- 14 exceed 10 days from issuance.
- 15 The bill provides that if no criminal charge has been filed
- 16 against the person alleged to have violated a public offense
- 17 referred to in Code section 664A.2(1) prior to the expiration
- 18 of the emergency temporary no-contact order, the emergency
- 19 temporary no-contact order shall expire. If a criminal charge
- 20 has been filed against the person alleged to have violated a
- 21 public offense referred to in Code section 664A.2(1) prior to
- 22 the expiration of the emergency temporary no-contact order, the
- 23 court shall proceed as provided in Code section 664A.3.

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